

PARTIES

5. Wolman is a renowned music photographer in the business of licensing his photographs to online and print media for a fee, having a usual place of business at 52 Vereda Serena Road, Santa Fe, New Mexico 87508. Wolman has photographed music icons such as Janis Joplin, The Rolling Stones, Frank Zappa, the Who, Jimi Hendrix, Pink Floyd, and Bob Dylan. Wolman was awarded the VIP award at the Classic Rock Roll of Honour Awards.

6. Upon information and belief, Urban is a foreign business corporation duly organized and existing under the laws of the State of Delaware, with a place of business at 900 Broadway, Suite 808, New York, New York 10003. At all times material hereto, Urban has owned and operated the website at the URL: www.GetKempt.com (the "Website").

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photograph

7. Wolman photographed blues legend BB King (the "Photograph"). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Wolman is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph is registered with the United States Copyright Office and was given registration number VA 1-726-336.

B. Defendant's Infringing Activities

10. Upon information and belief, Urban ran an article on the Website entitled *Happy Birthday, B.B. King*. See <http://www.getkempt.com/article/happy-birthday-b-b-king>. The article prominently featured the Photograph. A true and correct copy of the article are attached hereto as Exhibit B.

11. The article was written Urban Staff.

12. Urban did not license the Photograph from Plaintiff nor did Urban have Plaintiff's permission or consent to publish the Photograph on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST URBAN)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Urban infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Urban is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by Urban have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

18. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

19. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Urban be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
September 30, 2017

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